

Application No. 09/924,996

Docket 12-1158

REMARKS

Claims 1-23 were submitted for examination and, in the aforementioned Office action, claims 1-23 were rejected under 35 U.S.C. §103(a), and claims 6 and 17 were also rejected under 35 U.S.C. §112, second paragraph. Claims 6 and 17 have been amended in an effort to obviate the rejection under 35 U.S.C. §112, second paragraph. The rejections under 35 U.S.C. §103(a) are respectfully traversed, for reasons explained below. Accordingly, Applicant respectfully requests reconsideration and reexamination of the application, in view of the remarks that follow.

In response to the rejection of claims 6 and 17 under 35 U.S.C. §112, second paragraph, as set forth in section 2 of the Office action, these claims have been appropriately amended. Claim 6 now recites "at least" instead of "at last" and claim 17 recites "intermediate frequency (IF)" to explain the abbreviation "IF."

In sections 4-25 of the Office action, claims 1-16 and 18-23 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Saunders (US 6,697,850) in view of Rothblatt (US 6,105,060). In sections 26-28 of the Office action, claim 17 was rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Saunders and Rothblatt in view of Kaiser et al. (US 6,067,041).

The Saunders reference principally relied on by the Examiner was filed on May 9, 2000, prior to the August 8, 2001 filing date of the present application, and issued on February 23, 2004, which of course was after the filing date of the present application. Accordingly, the Saunders '850 patent qualifies as possible prior art to the present application only under the provisions of 35 U.S.C. §102(e) or, as in the current Office action, under the combined provisions of 35 U.S.C. §103(a) and 35 U.S.C. §102(e).

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However, both the present application and the application from which the Saunders '850 patent was granted were, at the time the present invention was made, owned by the same corporate entity, and are still both commonly owned by the assignee of record of the present application. Therefore, the provisions of 35 U.S.C. §103(c)(1) apply and the subject matter (of the Saunders '850 patent) "shall not preclude patentability under this section."

In support of the foregoing, Applicant submits with this amendment a Statement Concerning Common Ownership.

Therefore, reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a) are respectfully requested, since each ground of rejection is based principally on the disclosure of the Saunders '850 patent, which should not be allowed to preclude patentability, under 35 U.S.C. §103(c)(1).

The application is otherwise believed to be in condition for allowance. Therefore, an action to this effect is respectfully requested.

Respectfully submitted,

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